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PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

Docket No: Q68895

Shinji YAMAMORI, et al.

Appln. No.: 10/092,591

Group Art Unit: 1743

Confirmation No.: 1085

Examiner: Monique T. COLE

Filed: March 8, 2002

For: SENSOR FOR MEASURING CARBON DIOXIDE IN RESPIRATORY GAS

**RESPONSE UNDER 37 C.F.R. § 1.111**

**MAIL STOP AMENDMENT**

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Sir:

In response to the Office Action dated December 29, 2004, please consider the remarks as submitted herewith on the accompanying pages.

**REMARKS**

Claims 1-17 are all the claims pending in the application. Of these claims, claims 1, 2, 10 and 13 have been provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 17-19 of co-pending application Serial No. 10/779,852. Claims 3-9, 11, 12 and 14-17 have been indicated as containing allowable subject matter. For the following reasons, it is submitted that these obviousness-type double rejections should be withdrawn and the application be allowed to issue.

The MPEP makes it clear that when a provisional obviousness-type double patenting rejection is the only rejection remaining in the earlier filed of two co-pending applications, the